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Casefile

June 11, 2003

Dennis L. Keschl, Administrative Director  
Maine Public Utilities Commission  
State House Station 18  
242 State Street  
Augusta, ME 04333-0018

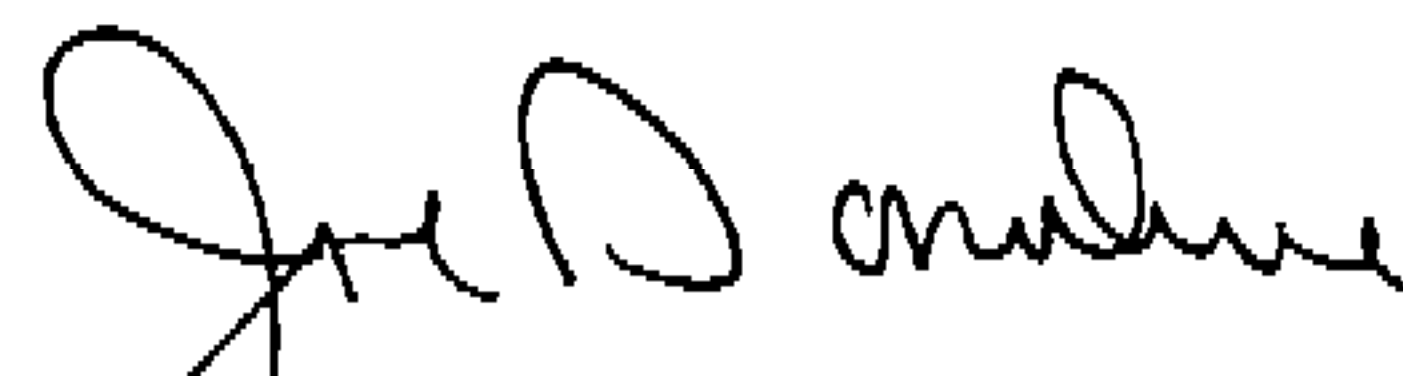
**RE: Tidewater Telecom, Request for Universal Service Funding, Docket No. 2002-529**

Dear Dennis:

Please find enclosed an original and six copies of a Stipulation submitted on behalf of Tidewater Telecom and the Office of the Public Advocate in the above-referenced matter. The purpose of the Stipulation is to settle all issues in this proceeding regarding a rate plan for changes in Tidewater's rates for intrastate access service and local exchange service and receipt of Maine Universal Service Fund payments. Please note that Confidential Exhibit A to the Stipulation is being filed under separate cover.

If there are any questions regarding this Stipulation, please give Bill Black or me a call.

Sincerely,



Joseph G. Donahue  
Counsel for Tidewater Telecom

JGD:amp  
Enclosure  
cc via email:

Shirley Manning, Tidewater Telecom  
David Pelletier, Tidewater Telecom  
William Brown, Berry, Dunn, McNeil & Parker  
Peter Ballou, MPUC Deputy General Counsel  
Richard Kania, MPUC Acting Director of Finance  
Joel Shifman, MPUC Senior Utility Analyst  
William Black, Office of the Public Advocate

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Tidewater Telecom, Request for Universal Service  
Funding

**STIPULATION**

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Tidewater Telecom ("Tidewater") and the Office of the Public Advocate ("Public Advocate"), collectively "the Parties", hereby agree and stipulate as follows:

**I. PURPOSE**

The purpose of this Stipulation is to settle all issues in this proceeding regarding changes in Tidewater's rates for intrastate access service and local exchange service and receipt of Maine Universal Service Fund ("MUSF") payments, which are related to the implementation of the Access Rate Parity Statute, 35-A M.R.S.A. §7101-B (as amended by P.L. 2003, Ch. 101), the Access Rate Section of the Commission's Rule on the Provision of Competitive Telecommunications Services, 65-407 C.M.R. ch. 280, §8, and the Receipts and Amounts Section of the Commission's Rule on Maine Universal Service Funding, 65-407 C.M.R. ch. 288, §3, in a coordinated manner with the implementation of the Amended Basic Service Calling Area ("BSCA") Rule, 65-407 C.M.R. 204 (as amended by Order Adopting Amended Rule, dated December 10, 2002, Docket No. 2001-865, in order to avoid the necessity for formal proceedings and hearings on those matters and to expedite their consideration and resolution. The provisions agreed to herein have been reached as a result of discussions and negotiations between the Parties.

**II. BACKGROUND**

On March 5, 2003, the Commission issued its Order Approving Universal Service Funding, which required that Tidewater file revised intrastate access rates, effective June 1, 2003, that would reduce intrastate access rates to the level of the NECA Tariff No. 5 rates as of July 2, 2002, that within 60 days following the Order Tidewater file a plan for increasing its local rates to Verizon levels, and that Tidewater shall receive MUSF funding in the amount of \$795,262 annually, beginning on June 1, 2003. In ordering that Tidewater file a rate plan, the Commission required Tidewater to take into account the anticipated implementation of the BSCA Rule changes, by directing that Tidewater must either file a plan that provides for local rate increases to Verizon levels to coincide with increases in BSCA or justify some other plan.

On May 15, 2003, Tidewater submitted its plan for increasing its local exchange rates to Verizon levels ("Rate Plan") as required by the Commission's Order. Tidewater requested that the Commission approve the Rate Plan, which provided for implementing decreases in access rates in three equal steps, increasing local rates to the Verizon levels in three equal steps, and providing for and adjusting MUSF payments as

necessary to meet Tidewater's revenue requirements. If the Rate Plan is approved, Tidewater also moved, pursuant to 35-A M.R.S.A. §1321, that the Commission amend its Order in accordance with the Rate Plan.

In a Procedural Order entitled "Examiner's Request for Further Argument," dated May 23, 2003 ("Procedural Order"), the Hearing Examiner ordered that the Telephone Companies file further memoranda explaining why they have an interest in shifting a portion of the burden of support for the Companies from the MUSF to access rates that are higher than the amounts ordered in the March 5 Orders in this proceeding. The Procedural Order stated that Tidewater's memorandum on the Rate Plan had failed to take account of the fact that the proposed changes in the Rate Plan will result in additional work for the Commission and the USF Administrator. Tidewater submitted further argument on its interest in a phase-in of intrastate access rate reductions on June 2, 2003.

During a conference call held by the Staff on June 4, 2003, in response to the Staff's concerns regarding the significant number of changes in rates and determinations of MUSF amounts in Tidewater's Rate Plan (which may be as many as six changes), and the concern regarding additional burden on the Commission and Administrator, the Public Advocate suggested an alternative plan with essentially two steps, which would take place upon implementation of the BSCA Rule changes and on June 1, 2005. Tidewater also noted that its original memorandum had stated that given that multiple adjustments to the MUSF amount may not be administratively feasible or economic, "Tidewater would be willing to consider a plan which provides for access rate decreases and local rate increases taking place simultaneously." Further discussions between Tidewater and the Public Advocate along these lines have resulted in this Stipulation.

### **III. STIPULATION PROVISIONS**

A. The parties to this Stipulation agree and recommend that the Commission approve this Stipulation and in doing so order as follows:

1. Phase-in of Reductions in Access Rates. Tidewater shall reduce its intrastate access rates in two steps, as follows:

Step 1: BSCA Month: Tidewater shall implement revised intrastate access rates, effective as of the first day of the month in which changes in the BSCA of Tidewater are implemented pursuant to the new BSCA Rule, which shall reduce its current intrastate switched and carrier common line access rates by one-half of the difference between the current rates and the rates for said services as appearing in the NECA Tariff No. 5 which became effective on July 2, 2002.

Step 2: June 1, 2005: Tidewater shall implement revised intrastate access rates on June 1, 2005, which shall reduce its then current intrastate switched and carrier common line access rates to the rates for said



services as appearing in the NECA Tariff No. 5 which became effective on July 2, 2002.

2. Phase-in of Increases in Rates for Basic Local Exchange Service. The Parties agree that Tidewater will implement increases in its rates for basic local exchange service simultaneously with the effective dates of the Step 1 and Step 2 reductions in intrastate access rates, as follows:

Step 1: BSCA Month: In the month in which changes in the BSCA of Tidewater are implemented pursuant to the new BSCA Rule, Tidewater will implement an increase in rates for basic local service, which will increase the rates by 50% of the difference between the then current rates and Verizon's equivalent rates as of July 1, 2003.

Step 2: June 1, 2005: During the month of June, 2005, Tidewater shall implement an increase in rates for basic local service, which shall increase the then current rates to the same level as Verizon's equivalent rates as of January 1, 2005.

3. Phase-In of MUSF Payments. Effective during the months in which the access rate reductions and local rate increases take place in Step 1 and Step 2, MUSF payments will commence to be made to Tidewater which will be calculated to replace revenues lost due to implementation of access rate reductions and implementation of the BSCA Rule, to the extent those lost revenues are not offset by the increases in basic local rates in Step 1 and Step 2. The revenues lost due to the access rate reductions shall be \$397,612 (on an annual basis) starting during the BSCA Month and \$795,283 (on an annual basis) starting June 1, 2005. The revenues lost and costs due to implementation of the BSCA changes to be used for determining the required MUSF payments shall be the best estimate of such losses and costs which can be made at the time of the implementation, recognizing that subsequent adjustments to the MUSF amount and local rates may be made as necessary to account for any over-recoveries or under-recoveries in the "tracking account" under the BSCA Rule.

Confidential Exhibit A, which is being provided under separate cover, sets forth the specifics of the Stipulation's plan for access rate reductions, local rate increases, and MUSF payments. Confidential Exhibit A and the figures and amounts therein are expressly incorporated into this Stipulation, with the exception of the figures for the BSCA costs and losses, which are only Tidewater's current estimates, and which may change upon the actual implementation of the BSCA Rule changes, but are included in the Exhibit to illustrate the approximate effect of the Stipulation.

B. Stipulation as Integral Document. This Stipulation represents the full agreement between all parties to the Stipulation and rejection of any part of this Stipulation constitutes a rejection of the whole.

C. Non-Precedential Effect. Except where it may be expressly noted herein, the Stipulation shall not be considered legal precedent, nor shall it preclude a party from raising any issues in any future proceeding or investigation on similar matters subsequent to this proceeding.

D. Staff Presentation of Stipulation. The Parties to the Stipulation hereby waive any rights that they have under 5 M.R.S.A. § 9062(4) and related Commission Rules to the extent necessary to permit the Advisory Staff to make any report, proposed findings or recommendations regarding this Stipulation and/or the resolution of this case without providing a copy in writing in advance to the parties with an opportunity to submit a response or exceptions thereto, provided that said recommendations are made at public deliberations or in some other public manner.

TIDEWATER TELECOM

By: Joseph M. Donahue      6-11-03  
Its: Attorney      Date

OFFICE OF THE PUBLIC ADVOCATE

By: William C. Black      6/11/03  
Its: Deputy Public Advocate      Date